

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 JAMES GRZESLO,

12 Plaintiff,

13 v.

14 B. SUAZO,

15 Defendant.  
16  
17  
18

No. 1:21-cv-01371 JLT EPG (PC)

Appeal No. 23-2169

ORDER REGARDING *IN FORMA PAUPERIS*  
STATUS ON APPEAL AND DIRECTING  
CLERK TO SERVE A COPY OF THIS  
ORDER ON THE UNITED STATES COURT  
OF APPEALS FOR THE NINTH CIRCUIT  
(Doc. 75)

ORDER DENYING PLAINTIFF'S MOTION  
FILED ON SEPTEMBER 20, 2023  
(Doc. 76)

19 The Court adopted the findings and recommendations of the assigned magistrate judge to  
20 dismiss this case without prejudice for Plaintiff's failure to comply with court orders and to  
21 prosecute this case. (Doc. 68.) Plaintiff appealed. (Doc. 70.) Soon thereafter, the Ninth Circuit  
22 Court of Appeals referred the matter back to this Court for the limited purpose of determining  
23 whether *in forma pauperis* status should continue for the appeal. (Doc. 75.)

24 As the Court noted in its order dismissing this action, Plaintiff filed no objections to the  
25 magistrate judge's Findings and Recommendations. (*See* Doc. 68 at 1-2.) It is undisputed that  
26 Plaintiff failed to comply with court orders and prosecute this case by not filing a scheduling and  
27 discovery statement. Given these circumstances, the Court finds Plaintiff's appeal is frivolous.  
28 Accordingly, the Court **ORDERS**:

1. The Court finds the appeal is frivolous.
2. Pursuant to 28 U.S.C. § 1915(a)(3), the Court finds Plaintiff is not entitled to proceed *in forma pauperis* in Appeal No. 23-2169.
3. Pursuant to Federal Rule of Appellate Procedure 24(a)(4), this order serves as notice to the parties and the United States Court of Appeals for the Ninth Circuit of the finding that Plaintiff is not entitled to proceed *in forma pauperis* for this appeal.
4. The Clerk of Court is directed to serve a copy of this order on the parties and the United States Court of Appeals for the Ninth Circuit.

IT IS SO ORDERED.

Dated: **September 27, 2023**

  
UNITED STATES DISTRICT JUDGE